

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHERMAN CARTER,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 99-757 JJF
	:	
COMMISSIONER STANLEY TAYLOR,	:	
et al.,	:	
	:	
Defendants.	:	
	:	

O R D E R

WHEREAS, Defendants filed a Renewed Motion To Dismiss (D.I. 106), which has been converted to a motion for summary judgment, contending that (1) Plaintiff failed to exhaust his administrative remedies; (2) Plaintiff has failed to state a claim upon which relief may be granted; and (3) Defendants are shielded from liability by qualified immunity;

WHEREAS, regarding Defendants' first contention, the Court finds that, because Plaintiff commenced this action after his release from prison, he no longer had a duty to exhaust administrative remedies;

WHEREAS, regarding Defendants' second contention, the Court finds that there exists a genuine issue of material fact as to whether Defendants exercised "deliberate indifference" towards Plaintiff's plight, specifically, whether Defendants failed to take timely action in recalculating Plaintiff's release date;

WHEREAS, regarding Defendants' third contention, the Court

finds that there exists a genuine issue of material fact as to whether said delay was reasonable;

NOW THEREFORE, IT IS HEREBY ORDERED that Defendants' Renewed Motion To Dismiss (D.I. 106) is **DENIED**.

April 29, 2005
DATE


UNITED STATES DISTRICT JUDGE